



COUNCIL AGENDA: 03/30/04

ITEM: \_\_\_\_\_

# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Scott P. Johnson  
James R. Helmer

**SUBJECT: RECORDING LIENS ON  
PROPERTY FOR THE COST OF  
SIDEWALK REPAIRS**

**DATE:** March 15, 2004

---

Approved

Date

---

**Council District:** Citywide  
**SNI:** NA

## **RECOMMENDATION**

Adoption of a resolution approving the Report of the Directors of Finance and Transportation on the Cost of Sidewalk Repairs, confirming the assessments contained in the Report, and directing the recording of liens on the property tax roll for the cost of sidewalk repairs.

## **BACKGROUND**

On February 17, 2004, the City Council set a hearing for March 30, 2004 at 1:30 p.m. for public protest and approval of the Report of the Directors of Finance and Transportation to record liens on the property tax roll for the cost of sidewalk repairs the City made on behalf of property owners.

As discussed in the Council Memo that accompanied the setting of the public hearing, State law and the San Jose Municipal Code make it the duty of each property owner to maintain the sidewalk fronting their property in a safe condition. Sidewalk repair in the City of San Jose is a request-driven program. Residents who contact the Department of Transportation (DOT) regarding a sidewalk in need or repair may request an inspection of the property from DOT staff. If it is determined that the sidewalk needs repair, DOT sends a repair notice to the property owner. DOT works with property owners to facilitate the repairs. In some cases, DOT completes the repairs and attempts to recover the cost of the repairs from the property owner. These repairs are currently funded by the City's General Fund.

**HONORABLE MAYOR AND CITY COUNCIL**

**Subject: Recording Liens on Property for the Cost of Sidewalk Repairs**

**March 15, 2004**

**Page 2 of 4**

The Finance Department invoices property owners for sidewalk repairs undertaken by DOT. Finance works diligently to recover expended funds; however, in some cases property owners neglect to pay the outstanding obligations. To recover the costs of these unpaid invoices, the City Council can levy assessments against the defaulting properties at the conclusion of a public hearing process.

**ANALYSIS**

A Report of the Directors of Finance and Transportation (report) on the costs incurred by the City for sidewalk repairs lists the commercial and rental properties (those not qualifying for a sidewalk repair grant) currently in default. The report currently identifies 93 properties with a proposed total assessment of \$109,050.17. Individual assessments vary from \$71.00 to \$4,996.50, and include an \$11.00 lien-release fee charged by the County Recorder's Office. These amounts have been paid by the City to concrete contractors to complete sidewalk repairs at the various properties listed.

**Sidewalk Repair Program**

In August, 1999, DOT began a 100% sidewalk repair grant program for owner-occupied residential property owners to offset the cost of maintaining their sidewalks. To date, more than 30,000 property owners have received assistance through this program. Commercial or rental property owners are not eligible for grants and may either make the repairs themselves or have DOT contract for the repairs.

**Sidewalk Repair Collection Process**

The City makes every attempt at collecting delinquent sidewalk repair invoices. Over the past three years, approximately 84% of all sidewalk repair invoices were paid without further collection efforts required. The remaining 16% resulted in placing a lien on the property through the County Recorder in which the City ultimately received 99% of the amount due through the County property tax roll. Following is a summary of the billing and collection process as it relates to recovery of City costs for sidewalk repairs:

- Initial invoices for sidewalk repairs are issued by the Department of Transportation (DOT).
- Payments are due within 30 days of the initial mailing.
- The Finance Department sends delinquency notices once an initial invoice is at least 60 days past due.
- The Finance Department may call the property owner, if telephone contact information is available, in further attempts to collect delinquent obligations.

**HONORABLE MAYOR AND CITY COUNCIL**

**Subject: Recording Liens on Property for the Cost of Sidewalk Repairs**

**March 15, 2004**

**Page 3 of 4**

- Two Notices of Intent to Lien are sent to each delinquent property owner.
- Administrative conferences are held by the Department of Transportation to provide property owners an opportunity to resolve any issues prior to a public hearing.
- City Council holds a public hearing and authorizes the placement of liens on delinquent properties.
- County Recorder places liens on delinquent property.
- County Tax Collector assesses and collects delinquent amount.
- The full amount assessed (less a one percent County administrative collection fee) is remitted to the City.

*Notification Process*

DOT has notified delinquent property owners listed in the report in two separate mailings sent on February 18, 2004 and February 25, 2004. These notifications indicated the time and place of the public hearing while affording property owners an opportunity to schedule an administrative conference as an effort to resolve potential protests prior to the public hearing. Most administrative conferences were held on March 3 – 4, 2004 in the offices of DOT. Additional administrative conferences have been held subsequent to the scheduled dates, providing property owners an opportunity to resolve any issue prior to the public hearing on March 30, 2004. These administrative conferences do not affect the property owners' right to protest the proposed assessment at the City Council public hearing.

Results of the administrative conferences and staff recommendations will be presented to the City Council in a supplemental memorandum along with the Report of Directors of Finance and Transportation on the cost of sidewalk repairs. This memorandum is expected to be distributed to the Council on Friday, March 26, 2004. After hearing any protests and considering the updated information presented in the supplemental memorandum, the City Council may confirm the Directors' Report and the full amounts contained therein or reduce any of the amounts due. In addition, Council may approve any of the following actions for each assessment:

- Place a lien against the property for the unpaid amount, to be paid with the next annual property tax bill;
- Allow the property owner to pay the assessed amount whether in full or, for assessment over \$100, in no more than five (5) annual installments.

**HONORABLE MAYOR AND CITY COUNCIL**

**Subject: Recording Liens on Property for the Cost of Sidewalk Repairs**

**March 15, 2004**

**Page 4 of 4**

### **COORDINATION**

This memorandum has been coordinated with the Departments of Transportation and Finance, and the City Attorney's Office.

### **COST IMPLICATIONS**

The funds (\$108,027.17) used to repair the sidewalks currently listed in the report were advanced from the General Fund.

### **CEQA**

Not a project.

SCOTT P. JOHNSON  
Director, Department of Finance

JAMES R. HELMER  
Director, Department of Transportation

